

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
ELKINS DIVISION

**STATE OF WEST VIRGINIA,**

Plaintiff,

v.

**UNITED STATES DEPARTMENT OF  
HOMELAND SECURITY; and**

**ALEJANDRO MAYORKAS**, in his official  
capacity as the Secretary of the United States  
Department of Homeland Security,

Defendants.

Case No. 2:21-CV-22

(Judge Klee)h)

**PLAINTIFF'S UNOPPOSED MOTION FOR EXTENSION OF TIME  
TO FILE MOTION FOR PRELIMINARY INJUNCTION**

Now comes Plaintiff, State of West Virginia, and requests an extension of time in which to file any motion for preliminary injunction from January 19, 2022, to January 26, 2022. The Defendants consent to this Motion. The reasons for this Motion follow.

1. On January 23, 2021, the Court granted an extension to the time frame for filing any motion for preliminary injunction to January 19, 2022. (ECF No. 17).

2. Plaintiff's concerns as stated in the prior motion (ECF No. 16) included limited available time to prepare any such motion, a memorandum in support, and any supporting documentation, which were anticipated to be fairly extensive and require the assistance of state employees who would be on leave for much of the time involved because of the holidays.

3. These concerns have been proven manifestly accurate during the last several weeks as the product and exhibits are detailed and extensive. Also and more acutely, a host of other factors, including some related to the pandemic, have made the availability of time and personnel more limited than anticipated. Consequently, Plaintiff has determined that, in order to properly complete the preparation of the motion, supporting memorandum, and related exhibits, it must request a 7-day extension of time for Plaintiff's impending deadline to file a preliminary injunction motion.

4. Coincidentally, Defendants' counsel contacted Plaintiff's counsel today regarding the prospect of extending the Defendants' deadline for a responsive pleading relative to the Amended Complaint. Consequently, discussions regarding the potential for a mutually-agreeable extension request occurred today. Although the parties were not able to reach a single time frame for extension applicable to the parties' respective deadlines this week, it is the understanding of Plaintiff's counsel that the Defendants intend to file a separate request for extension applicable to Defendants' January 21, 2022 deadline.

5. Regarding this Motion, Defendants, United States Department of Homeland Security and Alejandro Mayorkas, in his official capacity as the Secretary of the United States Department of Homeland Security, per discussion with Defendants' counsel, consent to the above-requested leave to file a Motion for Preliminary Injunction on or before January 26, 2022. Defendants note that, in granting this consent, they do not waive their right to oppose any motion for preliminary injunction that Plaintiff may file.

Based on the foregoing, the State requests that the Court grant this motion by entering the concurrently submitted proposed order.

Respectfully submitted,

STATE OF WEST VIRGINIA,

By counsel,  
PATRICK MORRISEY,  
ATTORNEY GENERAL

/s/ Curtis R. A. Capehart

Douglas P. Buffington II (WV Bar # 8157)

*Chief Deputy Attorney General*

Brent Wolfingbarger (WV Bar # 6402)

*Senior Deputy Attorney General*

Curtis R.A. Capehart (WV Bar # 9876)

*Deputy Attorney General*

State Capitol Complex

Building 1, Room E-26

Charleston, WV 25305-0220

Email: Curtis.R.A.Capehart@wvago.gov

Telephone: (304) 558-2021

Facsimile: (304) 558-0140

*Counsel for Plaintiff, STATE OF WEST VIRGINIA*

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(Judge Klee) (Judge Klee)

**CERTIFICATE OF SERVICE**

I hereby certify that, on this 18th day of January 2022, I electronically filed the foregoing  
“Unopposed Motion for Extension of Time to File Motion for Preliminary Injunction” with the  
Clerk of Court and all parties using the CM/ECF System.

/s/ Curtis R. A. Capehart

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*Chief Deputy Attorney General*

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Telephone: (304) 558-2021

Facsimile: (304) 558-0140

*Counsel for Plaintiff, STATE OF WEST VIRGINIA*